

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
SOUTHERN DIVISION

Akers v. United States of America	7:23-cv-120-BO
Benson v. United States of America	7:23-cv-96-BO
Breen v. United States of America	7:23-cv-83-BO
Brooks v. United States of America	7:23-cv-89-BO
Brundage v. United States of America	7:23-cv-62-BO
Burak et al v. United States of America	7:23-cv-42-BO
Clark v. United States of America	7:23-cv-99-BO
Davis et al v. United States of America	7:23-cv-43-BO
Glover v. United States of America	7:23-cv-114-BO
Green v. United States of America	7:23-cv-116-BO
Guinn v. United States of America	7:23-cv-72-BO
Hobbs v. United States of America	7:23-cv-40-BO
Holmes v. United States of America	7:23-cv-29-BO
Johnson v. United States of America	7:23-cv-30-BO
Luthy v. United States of America	7:23-cv-93-BO
McClain v. United States of America	7:23-cv-73-BO
Palumbo v. United States of America	7:23-cv-74-BO
Partain v. United States of America	7:23-cv-110-BO
Perry v. United States of America	7:23-cv-103-BO
Richards v. United States of America	7:23-cv-103-BO
Shine v. United States of America	7:23-cv-23-BO
Tomilson v. United States of America	7:23-cv-63-BO
Warren v. United States of America	7:23-cv-91-BO
Wax v. United States of America	7:23-cv-84-BO
Weiner v. United States of America	7:23-cv-95-BO
Bailey v. United States of America	7:23-cv-151-BO
Bailey v. United States of America	7:23-cv-149-BO
Loftus v. United States of America	7:23-cv-140-BO
Neely v. United States of America	7:23-cv-139-BO
Straw v. United States of America	7:23-cv-162-BO
Weeks v. United States of America	7:23-cv-154-BO

APRIL 17, 2023  
ORAL ORDER on MOTIONS  
BEFORE THE HONORABLE TERRENCE W. BOYLE  
UNITED STATES DISTRICT JUDGE

On behalf of the Defendant:

PAIGE O'HALE, ESQ.  
U.S. Attorney's Office  
150 Fayetteville Street, Suite 2100  
Raleigh, North Carolina 27601

Carolyn E. High, Court Reporter  
4979 Lake Wendell Road  
Zebulon, North Carolina 27597  
919-630-2987 / cissyhigh@nc.rr.com  
Stenomask with computer-aided transcription

1 (Monday, April 17, 2023, proceedings begin at 11:59 a.m.)

2 (Call to Order of the Court.)

3 THE COURT: This Court scheduled a hearing at noon  
4 today on the cases of Akers, Benson, Breen, Brooks, Brundage,  
5 Burak, Clark, Davis, Glover, Green, Guinn, Hobbs, Holmes,  
6 Johnson, Luthy, McClain, Palumbo, Partain, Perry, Richards,  
7 Shine, Tomilson, Warren, Wax, Weiner, Bailey, Bailey, Loftus,  
8 Neely, Straw, Weeks, all versus the United States. They have  
9 corresponding file numbers. The Government has not responded  
10 in these cases. They've been served and it's my understanding  
11 that the time for answer or other reply under the federal rules  
12 and statutes will expire either on the 14th, 15th -- no, not  
13 14th -- 15th, 16th, or 18th of April, the Government having the  
14 right to answer within 60 days after effective service. The  
15 Government has filed a motion to enlarge the time within which  
16 to answer and that is before the Court and that is the purpose  
17 of this order.

18 I'll take judicial notice of the fact that there is  
19 an administrative proceeding going on involving the PACT Act  
20 cases, that the statute creating the right under which the  
21 plaintiffs bring suit provides for filing of an administrative  
22 claim as a prerequisite to jurisdiction in this court and that  
23 parties who have filed claims but whose claims have not been  
24 resolved after six months pending in the administrative  
25 proceeding are entitled to sue in this court. And assumedly

1       that represents all of the pending cases that I have just  
2 identified.

3                 The reality of that is clear that assumedly in each  
4 and every one of these cases, six months have expired within  
5 the administrative process and now either 59 or 60 days or 61  
6 days have expired in this court without response or  
7 intervention or resolution by the Defendant, United States.  
8 And so, after eight months of nonactivity in each and every one  
9 of these claims, it's not readily apparent that the Government  
10 needs additional time. Eight months should be sufficient. And  
11 certainly, two months within this court's jurisdiction should  
12 be sufficient.

13                 But out of an abundance of caution and in order to  
14 cooperate with the matters that are pending in this district, I  
15 will enlarge the time within which to file a responsive  
16 pleading under the Federal Rules of Civil Procedure and law to  
17 April 30th of 2023. And an order to that effect will be  
18 entered right now.

19                 So I see the Government is here. Do you want to add  
20 anything to this?

21                 MS. O'HALE: No, Your Honor. I'm from the U.S.  
22 Attorney's office. Main Justice is in the charge of  
23 litigation, but I've shown up in case you needed us.

24                 THE COURT: Well, you are the Government.

25                 MS. O'HALE: Correct, Your Honor.

1                   THE COURT: Yeah. Okay. So it was not ex parte. It  
2 was with the Government appearing. Okay. Thank you.

3                   The court will be in recess.

4                   (Proceedings concluded at 12:04 p.m.)

5 \_\_\_\_\_

6                   (END OF TRANSCRIPT.)

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NORTH CAROLINA  
JOHNSTON COUNTY

I CERTIFY THAT THE FOREGOING IS A TRUE AND ACCURATE TRANSCRIPT  
OF SAID PROCEEDINGS.

/s/ CAROLYN E. HIGH      04/17/23  
CAROLYN E. HIGH                  DATE  
Contract Court Reporter